

Witness: GCHQ Witness
Party: 3rd Respondent
Number: 9
Exhibit: N/A
Date: 15.12.17

Case No. IPT/15/110/CH

**IN THE INVESTIGATORY POWERS TRIBUNAL:
BETWEEN:**

PRIVACY INTERNATIONAL

Claimant

and

- (1) SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS
- (2) SECRETARY OF STATE FOR THE HOME DEPARTMENT
- (3) GOVERNMENT COMMUNICATION HEADQUARTERS
- (4) SECURITY SERVICE
- (5) SECRET INTELLIGENCE SERVICE

Respondents

NINTH WITNESS STATEMENT OF GCHQ WITNESS

I, GCHQ WITNESS, Deputy Director in the Government Communications Headquarters (GCHQ), Hubble Road, Cheltenham, Gloucestershire, GL51 0EX, WILL SAY as follows:

1. I am Deputy Director Mission Policy at GCHQ. In that role, I am responsible for drawing up the operational policies that underpin GCHQ's intelligence gathering activities and for ensuring that they are complied with. I have been in this role since 5 January 2015, having previously served as Deputy to my predecessor. I have worked for GCHQ in a variety of roles since 1997.
2. I am authorised to make this witness statement on behalf of GCHQ. The contents of this statement are within my own knowledge and are true to the best of my knowledge and belief. Where matters are not within my own knowledge they

are based upon documentation made available to me and from discussions with others within GCHQ.

3. I make this statement in response to IPCO's letter to the Tribunal dated 28 November 2017 and the account of the "table top" review process that IOCCO undertook during their inspection of s.94 Directions on 25-26 April 2017.
4. Our formal documentation of the visit shows that the Compliance team did provide the IOCCO inspectors with a print-out of audit logs for queries of section 94 data which presented the three elements described in my seventh witness statement. Search terms were not included on this print-out. Inquiries into the question of whether the IT Security team provided a separate print-out showing search terms are still continuing. There is nothing in the formal documentation that we have seen so far to indicate that print-outs from the IT Security team, relating to search terms corresponding to the print-outs already provided by the Compliance team, were provided. Nor do those GCHQ officers who we have so far been able to ask about this recall the IT Security team print-out of search terms that IPCO has described. I would add that, if we had been requested to provide search terms and the three elements for inspection, the IT Security team would have been able to provide all of this information on one print-out.
5. Search terms and the three-part justification have been previously reviewed together for internal audits. From at least 2010 until September 2016, the Compliance team co-ordinated necessity and proportionality (then known as "HRA") audits on specific operational systems. For each specified operational system the three-part justification would be captured in the audit logs and, where it was technically possible (which it generally was), the search term would also be captured. For one operational system the search term was, and still is, routinely audited alongside the three-part justification. This is because the nature of the data within this system is such that we consider it requires an extra level of auditing. For other systems, where a search term was captured it was visible to auditors and could be reviewed during an audit alongside the three-part justification if further context to the three-part justification was required. This was not the primary focus of the audit though which was to assess the quality of the statement justifying the necessity and proportionality of the access to GCHQ data.
6. In September 2016 the way in which audits are carried out changed so that a number of randomly selected queries are supplied for audit from across all operational systems that require a necessity and proportionality statement. This ran as a pilot from October 2016 to March 2017 and was fully implemented following the pilot. During the pilot, search terms were not presented alongside the three-part justification. Following feedback from auditors and the IOCCO inspectors this changed in June 2017 and the search term is now routinely presented during audits. It remains the case, however, that the primary focus of

the audit carried out by the Compliance team is to assess the quality of analysts' necessity and proportionality statements against the audit standard.

7. Monitoring of systems for misuse (for example an analyst running a search for some reason other than the meeting of a valid intelligence requirement), is carried out by the IT Security team. They use automated "trip wire" processes to alert them to searches of concern so that they can investigate further. When such incidents occur they review the search term, and the necessity and proportionality statement entered by the analyst plus any other information that is considered necessary to complete their investigations. This may involve discussions with the analyst, their line manager or other areas of GCHQ if deemed appropriate. If genuine misuse is found then appropriate action is taken.

Statement of Truth

I believe that the facts stated in this witness statement are true.

GCHQ witness
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Dated: *15 December 2017*

